

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: patent application of
Michael J. Picciallo

Group Art Unit: **2876**

This is a Divisional Application of prior Appl.
 Serial No. 08/875,929 filed on June 16, 1997, which,
 in turn, is a Continuation-In-Part of prior Appl. Serial
 No. 08/575,173, filed April 16, 1996 (now abandoned)

Examiner: **H. Pitts**

Filed: **herewith**

Date: **January 5, 2000**

For: **THIRD PARTY CREDIT ACCOUNT**

Assistant Commissioner for Patents
 Box Patent Application
 Washington, D.C. 20231

CERTIFICATE OF MAILING

I hereby certify that this correspondence, along with any papers indicated as being enclosed, are being sent as Express Mail Label
 No. EL406409085US to : Assistant Commissioner for Patents, Washington, D.C. 20231, on January 5, 2000.

Date 1/5/00

Phaedra A. Trethan
 Phaedra A. Trethan

**PETITION TO MAKE SPECIAL
 BECAUSE OF ACTUAL INFRINGEMENT**

Applicant hereby petitions to make this application special because of actual
 infringement. Accompanying this petition is a Statement of Fact in Support of this Petition to
 Make Special Because of Actual Infringement, and a Statement by Attorney in Support of
 this Petition to Make Special Because of Actual Infringement. Enclosed is a check in the
 amount of \$130.00 for the required fee pursuant to 37 C.F.R. §1.17(i).

01/21/2000 PSTANBAC 0000000103472051 any additional charges in connection with this petition, the Examiner is
 04 FC:122 authorized to charge applicant's Deposit Account No. 19-5425 therefor.

Respectfully submitted,

Peter J. Butch III
 Peter J. Butch III
 Registration No. 32,203

Synnestvedt & Lechner LLP
 2600 Aramark Tower
 1101 Market Street
 Philadelphia, PA 19107
 Telephone (215) 923-4466



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For: **THIRD PARTY CREDIT ACCOUNT**
Group Art Unit: 2876
Examiner: **H. Pitts**
Date: **December 29, 1999**
X

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Date 1/5/00
Phaedra A. Trethan

**STATEMENT OF FACT IN SUPPORT OF PETITION
TO MAKE SPECIAL BECAUSE OF ACTUAL INFRINGEMENT**

I, Peter J. Butch III of Synnestvedt & Lechner LLP, 2600 Aramark Tower, 1101 Market Street, Philadelphia, Pennsylvania 19107, Registration No. 32,203, Telephone No. (215) 923-4466, am the attorney of record and the practitioner for the applicant in this case and make the following statements:

1. I have made a rigid comparison of the alleged infringing method of Cybermoola.com referred to in the accompanying Declaration of Michael J. Picciallo with the claims of this application. A comparison of information presented on their website, attached hereto as Exhibit "A", with presently pending claims 60-62 is set forth below:

Claims

60. A computer-based method for transferring funds to third parties comprising:

creating for each third party a customer account file containing a record of funds deposited by a depositor for use by each third party; and

periodically depositing funds into a customer account file in response to command instructions from said fund depositor.

61. The method of claim 60, wherein said funds are deposited weekly or monthly.

62. The method of claim 60, wherein said funds are deposited automatically.

See also: <http://www.cybermoolacom.>

Cybermoola

"All you need is a little Cybermoola (CM) to open a FREE account. There are many ways to get CM...have your relatives buy some for you."
(<http://www.cybermoola.com> FAQ@p.3)

"Once you get Cybermoola (CM), you activate it by creating a private, secure account here at www.Cybermoola.com."
(FAQ@p.2). "If you want people to deposit into your account all you need to do is provide your user name."
(*id.* @p.3)

"A credit card can be used to set up periodic Recharges. So, if a relative or parent would like to set up a weekly or monthly Cybermoola allowance for you then that's great." (*Ibid.*)

Ibid.

Ibid.

2. In my opinion, at least claims 60-62 on file in this application are unquestionably infringed. Further investigation would be needed to determine whether the other method claims and the computer system claims are also infringed. Clearly, however, Cybermoola.com is practicing the gist of applicant's claimed invention. Applicant's basic concept was to establish an allowance in the form of a credit card. As stated at specification page 19, lines 9-12:

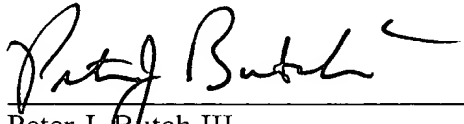
The amount of funds to be transferred is also specified. The transfer can be established as a one-time only event, or it can be programmed to occur periodically, i.e., daily, weekly, monthly, and the like. The periodic transfer can be programmed automatically... .

3. I have made a search of the pertinent prior art. All such material has been cited to the Examiner in an Information Disclosure Statement filed with this application together with the within petition.

4. I believe that all claims in this application as on file are allowable. At the very least, there is no teaching or suggestion in the prior art of the subject matter of claim 62, which is directed to a method in which a credit account is established for use by a third party into which funds are deposited both periodically **and** automatically.

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title XIX of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: December 29, 1999



Peter J. Butch III

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: Group Art Unit: **2876**
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: Examiner: **H. Pitts**
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:
: Date: **December 20, 1999**
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: X

Assistant Commissioner for Patents
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5, 2000.

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Phaedra A. Trethan

**STATEMENT OF FACTS IN SUPPORT OF PETITION
TO MAKE SPECIAL BECAUSE OF ACTUAL INFRINGEMENT**

I, Michael J. Picciallo, of 142 North Sussex Street, Dover, New Jersey 08701, am the
inventor of the above-identified invention and I hereby state the following:

1. There is an actual infringement of my invention. About two weeks ago, while
doing some Internet research relating to the marketing of my invention, I came across the
website of Cybermoola.com. I learned that this site was less than three months old, and
offered children the ability to shop by means of an online account established by their
parents. The parents, or another relative, can provide Cybermoola with a credit card number
from which the account can be periodically and automatically recharged with what essentially

is an allowance payment. This is exactly the computer-based method described in my patent application at page 19, lines 9-12. Furthermore, this is exactly the computer-based method to which claims 60-62 of my patent application are directed. These claims define a method in which a customer account file is provided containing a record of funds deposited for use by third parties. In response to command instructions from fund depositors, the accounts may be periodically and automatically recharged.

2. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title XIX of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 12/20/99

Michael J. Picciallo
Michael J. Picciallo

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